

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:23-HC-2006-FL

JAMES LEONARD SMITH,)
)
Petitioner,)
)
v.) ORDER
)
UNITED STATES OF AMERICA,)
)
Respondent.)

This matter is before the court on petitioner's motion to correct clerk action (DE 6). He states he intended to appeal his criminal sentence, not file the instant habeas corpus action. Petitioner was convicted and sentenced in the United States District Court for the Eastern District of Virginia, and any notice of appeal must be filed in his criminal case in that district.¹ See Fed. R. App. P. 3.

Accordingly, the court construes the instant motion as seeking voluntary dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a)(1). The motion for voluntary dismissal is GRANTED, and the instant action is DISMISSED. The clerk is DIRECTED to terminate all pending motions as moot and close this case.

SO ORDERED, this the 30th day of January, 2023.


LOUISE W. FLANAGAN
United States District Judge

¹ To the extent petitioner requests this court to forward the paperwork filed in the instant action to the United States Court of Appeals for the Fourth Circuit, the court declines such a request.